

**Testimony on SB 393  
to  
The Senate Agriculture Committee**

**by Dave Starkey  
Chief Legal Counsel  
Kansas Department of Agriculture**

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Good morning, Chairman Taddiken and members of the committee. I am Dave Starkey, chief legal counsel with the Kansas Department of Agriculture. I am here in support of Senate Bill 393.

The main provisions of the bill relate primarily to action taken on licenses and permits. The Kansas Administrative Procedure Act (KAPA) provides that a state agency may not revoke, suspend, modify, annul, withdraw, refuse to renew, or amend a license unless the state agency first gives notice and an opportunity for a hearing in accordance with that act. This assumes that the relevant statute expressly states that KAPA governs the administrative proceeding.

Many of the statutes which the department administers and enforces say licensing action can be taken only after “notice and hearing.” If a licensing action is deemed warranted under those statutes, then a hearing is scheduled with a presiding officer from the Office of Administrative Hearings (OAH) and notice of the hearing is given to the licensee at the time the action is commenced. In some cases, the licensee does not appear or does not want the hearing. But, department personnel have to appear and be ready to proceed because the statutes require it. This process commits resources and incurs costs with OAH. The proposed change to “notice and opportunity for hearing” now exists in other statutes which KDA administers and enforces.

The final change is the implementation of a new statute under the Kansas dairy law that would allow the temporary suspension of a license or permit. It will apply primarily to milk producers and milk processing plants. Kansas has adopted the U.S. Food and Drug Administration’s Grade A Pasteurized Milk Ordinance (PMO) to maintain an effective program for the prevention of milk borne disease. Kansas has adopted the PMO along with all other states to provide uniformity and high level of excellence of milk sanitation practice in the United States. The ordinance requires milk samples to be taken for lab tests. If there are repeated sanitation violations, the ordinance requires temporary suspension of the license until the sanitation issues are resolved. Ordinarily, facilities are in compliance within a very short period of time.

The requested revisions would make the statutes consistent with other similar statutes administered by the department, be consistent with the provisions of KAPA regarding licensure, would provide due process rights to a licensee, make the process more efficient, and reduce costs.

I will stand for questions at the appropriate time.